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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,760	07/18/2003	Samuel Messinger	3999.004	2448

7590

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EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,760

Applicant(s)

MESSINGER, SAMUEL

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 8-9, "two side panels connected to each one of the top panels (sic) and the bottom panel" is inaccurate, as the top panel does not have two side panels connected thereto, nor does the bottom panel have two side panels connected thereto. See same problem in claim 15, lines 8-9. Also in lines 8-9, "top panels" lacks basis from plural top panels. See same problem in claim 15, lines 8-9. In line 10, "two end panels connected to each side panel" is inaccurate, as each disclosed side panel does not have two end panels joined thereto. See same problem in claim 15, line 10. In lines 11-12, "flap connected to each one of the top and bottom panels" is inaccurate, as any one flap is not connected to each of the top and bottom panels. See also claim 15, lines 11-12. In line 15, "multiple perforations lines" is indefinite as to the double plurality of "perforations" and "lines". See also claim 15, line 15 and claim 16, line 8.

In claim 2, lines 1-2, "multiple perforations lines" would indicate the presence of a "second perforation line" already, rendering the claimed subject matter indefinite. In line 2, "the flap" lacks antecedent basis for one such flap. Also a perforation line is not located between a flap and each of the end panels, as the flap is not related to both end panels.

In claim 3, line 2, "the side panel" lacks antecedent basis for one particular side panel. In lines 3, 5-6 and 6, "the end panel" lacks antecedent basis for one particular side panel. In line 4, "angle with bottom panel" is ungrammatical. In line 5, "the other

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side panel" is not clearly distinguished from the other side panel. In line 6, "at right angle to bottom panel" is ungrammatical. In line 7, "the side panel" lacks basis for which previously defined "side panel" is being referred to. In line 8, "right angles to bottom panel" is ungrammatical.

In claim 4, line 2, "Velcro" is improper, as trademarks should not appear in the claim. The generic terminology, i.e. "hook and loop fastener" should be employed in both the specification and claims. In line 3, "the flap" lacks antecedent basis for one flap.

In claim 11, line 2, it is indefinite whether "multiple perforations" is the same as "multiple perforations lines" or not, and there is no antecedent basis for "the object".

In claim 12, line 2, "the perforation" lacks basis for one such perforation.

In claim 13, line 2, "at least three folding section (sic)" is inconsistent with parent claim 7, "three folding section" and is also ungrammatical. See claim 14 for the same problems.

In claim 15, line 3, "an unitary" is ungrammatical. In lines 21, 23 and 25, "with bottom panel" and "to bottom panel" are ungrammatical.

In claim 17, line 4, "two side panels connected to the second panel" fails to be disclosed. In line 6, "each flap slide" is ungrammatical.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 9-12 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (5,372,259). Disclosed is a single piece organizer comprising a unitary one piece blank comprising a bottom panel or panel (28 or 28, 28 together), a top panel or second panel (29 or 29, 29 together), two side panels (24, 25) connected to the top and bottom panels, two end panels (22, 23) connected to each side panel, at least one flap (26 or 27) connected to the top and bottom panels (see Figure 2), each flap including folding sections (defined by lines L3-L5) and multiple perforation lines (38 and 39).

As to claim 9, each flap includes folding sections (adjacent 39 or outside thereof) of different sizes.

As to claim 10, each flap includes one folding section (defined by lines L3-L5) of the same width as the top and bottom panels (28, 28 and 29, 29).

As to claims 11 and 12, the perforations (39) are deformed when loaded with an object and comprise a slit.

4. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (259). To merely provide the structure of Suzuki et al. has been explained above.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2 and 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. ('259). Suzuki et al. has been explained above. Due to the inaccuracy of the claims as presently provided, to any degree the described subject matter may not be as the disclosed subject matter, such structure would appear to have been obvious as claimed in view of Suzuki et al..

As to claim 2, to provide the lines L3-L5 from perforation lines would have been obvious, as perforated lines as merely folding lines are well known in the field, and official notice is taken thereof.

As to claim 6, to produce a blank from a die-cutting operation is well known in the field, and official notice is taken thereof.

As to claims 7-8 and 13-14, the relative sizes of the folding sections relative to the top or bottom panels or themselves are not seen to provide any difference except as to size.

7. Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Dependent claims 4 and 5 would also then be allowable.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are organizer boxes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG